

ASSEMBLY BILL

No. 1485

Introduced by Assembly Member Granlund

February 26, 1999

An act to amend Sections 13370 and 13376 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1485, as introduced, Granlund. Schoolbus certificates.

Under a provision in existing law, the Department of Motor Vehicles is required to deny or revoke a schoolbus, school pupil activity bus, youth bus, general public paratransit driver certificate, or a certificate to drive a vehicle used for the transportation of developmentally disabled persons, for any one of specified causes and the department is authorized to deny, suspend, or revoke the described certificate for other specified causes. A second provision in existing law requires the department to revoke the certificates and to deny an application for those certificates for any one of certain different listed causes and to temporarily suspend or withhold a certificate if the holder or applicant is arrested or charged with specified sex offenses subject to a hearing procedure.

This bill would recast the first referenced provision by limiting its application to the denial of a certificate for an application to drive the specified vehicles. The bill, under the first described provision, would expand the causes to deny a certificate for an applicant by including instances when an applicant has been convicted of any violent or serious felonies as those felonies are listed in the Penal Code. The bill would

also include in the first described provision additional causes for denying a certificate, including conviction of hit and run driving, reckless driving, or driving under the influence of alcohol or drugs.

This bill would clarify that the provision governing revocations of certificates also applies to a certificate holder of a vehicle used for the transportation of developmentally disabled persons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13370 of the Vehicle Code is
2 amended to read:

3 13370. (a) The department shall deny ~~or revoke a~~
4 ~~certificate for an applicant to drive~~ a schoolbus, school
5 pupil activity bus, general public paratransit vehicle,
6 youth bus ~~driver certificate~~, or ~~a certificate for a vehicle~~
7 used for the transportation of developmentally disabled
8 persons if any of the following ~~causes~~ apply to the
9 applicant ~~or certificate holder~~:

10 (1) Has been convicted of any sex offense as defined in
11 Section 44010 of the Education Code.

12 (2) Has been convicted, within the two years
13 preceding the application date, of any offense specified
14 in Section 11361.5 of the Health and Safety Code.

15 (3) Has failed to meet prescribed testing or training
16 requirements for certificate issuance.

17 ~~(b) The department may deny, suspend, or revoke a~~
18 ~~schoolbus, school pupil activity bus, general public~~
19 ~~paratransit vehicle, or youth bus driver certificate or a~~
20 ~~certificate for a vehicle used for the transportation of~~
21 ~~developmentally disabled persons~~

22 (4) *Has, within the three years preceding the*
23 *application date, either been convicted of a violation of*
24 *Section 20001, 23103, 23104, 23152, or 23153 or had his or*
25 *her driving privilege suspended, revoked, or placed on*
26 *probation by the department for a cause involving the*
27 *safe operation of a motor vehicle.*

1 (5) *Has been convicted of any violent felony listed in*
2 *subdivision (c) of Section 667.5 of the Penal Code or any*
3 *serious felony listed in subdivision (c) of Section 1192.7 of*
4 *the Penal Code.*

5 (b) (1) *The department shall deny an application for*
6 *a certificate listed in subdivision (a), following an*
7 *opportunity to challenge the validity of the testing*
8 *described in this paragraph, if the certificate applicant*
9 *has received a positive test result for a controlled*
10 *substance, as specified in Part 382 (commencing with*
11 *Section 382.101) of Title 49 of the Code of Federal*
12 *Regulations and Section 34529.*

13 (2) *If the applicant receives a positive test result and*
14 *has been provided an opportunity to challenge the*
15 *validity of the test, the department shall deny the*
16 *application for a certificate listed in subdivision (a) for*
17 *three years from the date of the confirmed positive test*
18 *result.*

19 (3) *The motor carrier that requested the test shall*
20 *report the positive test result to the department not later*
21 *than five days after receiving notification of the test result*
22 *on a form approved by the department.*

23 (4) *The department shall maintain a positive test*
24 *result reported under paragraph (3) in the driving record*
25 *of the applicant for three years from the date the*
26 *department receives the report.*

27 (c) *The department may deny a certificate listed in*
28 *subdivision (a), if any of the following causes apply to the*
29 *applicant or certificate holder:*

30 (1) *Has been convicted of any crime specified in*
31 *Section 44424 of the Education Code within the seven*
32 *years preceding the application date. This paragraph*
33 *does not apply if denial is mandatory.*

34 (2) *Has committed any act involving moral turpitude.*

35 (3) *Has been convicted of any offense, not specified in*
36 *this section—and, other than a sex offense, that is*
37 *punishable as a felony, within the seven years preceding*
38 *the application date.*

39 (4) *Has been dismissed as a driver for a cause relating*
40 *to pupil transportation safety.*

(5) Has been convicted, within the seven years preceding the application date, of any offense relating to the use, sale, possession, or transportation of narcotics, habit-forming drugs, or dangerous drugs, except as provided in paragraph (3) of subdivision (a).

~~(e) (1) Reapplication following denial or revocation~~

(d) (1) The department may temporarily withhold issuance of a certificate listed in subdivision (a) to an original applicant, if the applicant is arrested for or charged with any sex offense, as defined in Section 44010 of the Education Code.

(2) Upon receipt of a notice of the department's intent to withhold issuance of a certificate, the original applicant may request a hearing within 10 days of the effective date of the department's action.

(3) The department, upon request of the original applicant for a certificate, within 10 working days of the receipt of the request, shall conduct a hearing on whether the public interest requires withholding of the certificate pursuant to paragraph (1).

(4) If the charge is dismissed or results in a finding of not guilty, the department shall immediately resume the original application process, and shall expunge any action taken pursuant to this subdivision from the record of the original applicant.

(e) (1) Except as provided in subdivision (b), reapplication following denial under subdivision (a) or (b) may be made after a period of not less than one year from the effective date of the denial or revocation.

(2) An applicant ~~or holder of a certificate~~ may reapply for a certificate whenever a felony or misdemeanor conviction is reversed or dismissed. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to Section 1203.4a of the Penal Code is not a dismissal for purposes of this section.

SEC. 2. Section 13376 of the Vehicle Code is amended to read:

13376. (a) The department shall revoke a schoolbus, school pupil activity bus, youth bus, ~~or~~ general public

1 paratransit driver certificate, ~~and shall deny an~~
2 ~~application for that~~ or a certificate for a vehicle used for
3 the transportation of developmentally disabled persons,
4 for any of the following causes:

5 (1) The ~~applicant or~~ certificate holder has been
6 convicted of any sex offense as defined in Section 44010
7 of the Education Code.

8 (2) The ~~applicant has~~ certificate holder, within the
9 three years preceding the *initial* application date, *or at*
10 *any time thereafter* has either been convicted of a
11 violation of Section 20001, 23103, 23104, 23152, or 23153, or
12 ~~has had~~ his or her driving privilege suspended, revoked,
13 or placed on probation by the department for a cause
14 involving the safe operation of a motor vehicle.

15 (3) The ~~applicant has~~ certificate holder, within the
16 two years preceding the *initial* application date, *or any*
17 *time thereafter*, has been convicted of any offense
18 specified in Section 11361.5 of the Health and Safety
19 Code.

20 (4) The ~~applicant~~ certificate holder has failed to meet
21 the prescribed testing requirements for issuance of the
22 certificate.

23 (b) (1) The department shall revoke a certificate
24 listed in subdivision (a), following an opportunity to
25 challenge the validity of the testing described in this
26 paragraph, for three years if the certificate holder has
27 received a positive test result for a controlled substance,
28 as specified in Part 382 (commencing with Section
29 382.101) of Title 49 of the Code of Federal Regulations
30 and Section 34520. However, the department shall not
31 revoke a certificate under this paragraph if the certificate
32 holder is in compliance with any rehabilitation or return
33 to duty program that is imposed by the employer that
34 meets the controlled substances and alcohol use and
35 testing requirements set forth in Part 382 (commencing
36 with Section 382.101) of Title 49 of the Code of Federal
37 Regulations.

38 (2) If ~~an applicant~~ a certificate holder receives a
39 positive test result and has been provided an opportunity
40 to challenge the validity of the test, the department shall

~~deny the application for~~ *revoke* a certificate listed in subdivision (a) for three years from the date of the confirmed positive test result.

(3) The carrier that requested the test shall report the positive test result to the department not later than five days after receiving notification of the test result on a form approved by the department.

(4) The department shall maintain a positive test result reported under paragraph (3) in the driving record of the ~~applicant or~~ certificate holder for three years from the date the department receives the report.

(c) (1) The department may temporarily suspend a ~~schoolbus, school pupil activity bus, youth bus, or general public paratransit driver~~ certificate *listed in subdivision (a)*, ~~or temporarily withhold issuance of a certificate to an~~ applicant, if the holder or applicant is arrested for or charged with any sex offense, as defined in Section 44010 of the Education Code.

(2) Upon receipt of a notice of temporary suspension, ~~or of the department's intent to withhold issuance,~~ of a certificate, the certificate holder ~~or applicant~~ may request a hearing within 10 days of the effective date of the department's action.

(3) The department shall, upon request of the holder of, ~~or applicant for,~~ a certificate, within 10 working days of the receipt of the request, conduct a hearing on whether the public interest requires suspension ~~or withholding~~ of the certificate pursuant to paragraph (1).

(4) If the charge is dismissed or results in a finding of not guilty, the department shall immediately terminate the suspension ~~or resume the application process,~~ and shall expunge the suspension action taken pursuant to this subdivision from the record of the ~~applicant or~~ certificate holder.

(d) ~~An applicant or~~ A holder of a certificate may reapply for a certificate whenever a felony or misdemeanor conviction is reversed or dismissed. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal

1 of charges pursuant to Section 1203.4a of the Penal Code
2 is not a dismissal for purposes of this section.

3 (e) The determination of the facts pursuant to this
4 section is a civil matter ~~which~~*that* is independent of the
5 determination of the person's guilt or innocence, has no
6 collateral estoppel effect on a subsequent criminal
7 prosecution, and does not preclude the litigation of the
8 same or similar facts in a criminal proceeding.

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